

FILED
BOARD OF OPTOMETRISTS

OCT 30 2007

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF OPTOMETRISTS

IN THE MATTER OF THE
SUSPENSION OR REVOCATION OF
THE LICENSE OF

ARON TZVI GOTTESMAN, O.D.
LICENSE NO. 27OA0582500

TO PRACTICE OPTOMETRY
IN THE STATE OF NEW JERSEY

Administrative Action

FINAL ORDER
OF DISCIPLINE

This matter came before the New Jersey State Board of Optometrists upon information that the respondent has failed to complete a total of fifty (50) credits of continuing education in approved optometry courses during the period of May 1, 2005 to April 30, 2007, as required for the 2007-2009 biennial license renewal pursuant to N.J.S.A. 45:12-9.3 and N.J.A.C. 13:38-7.3. Based upon information received and which the Board has reviewed, the following preliminary findings are made:

FINDINGS OF FACT

1. Respondent is an optometrist in the State of New Jersey and has been a licensee at all times relevant hereto.

2. On April 12, 2005 the respondent returned his completed 2007-2009 renewal application for licensure as an optometrist in the State of New Jersey in which he answered “yes” to the question asking for affirmation as to whether or not he completed the required continuing education credits by April 30, 2007.

3. On the 15th day of June, 2007, the Board of Optometrists initiated a random audit of renewal applications for the 2007-2009 period, asking licensees to submit proof with regard to the satisfaction of continuing education requirements for the biennial renewal period, i.e., fifty (50) credit approved hours which includes twenty-five (25) credits in general optometric education and twenty-five (25) credits in courses or programs classified as therapeutic pharmaceutical agents (“TPA”).

4. Respondent submitted proof of having completed 37 credits of continuing education, which is insufficient to satisfy the continuing education requirement because it falls short by 13 credits of the requisite fifty (50) approved credit hours pursuant to N.J.S.A. 45:12-9.3 and N.J.A.C. 13:38-7.3.

5. Respondent submitted correspondence dated June 28, 2007 stating that he lacked the requisite 50 hours of continuing education credits and requested additional time to complete the outstanding credit hours or in the alternative requested modification of the requisite hours. The Board agreed to permit the Respondent to complete the outstanding credit hours and denied his request to reduce the number of credits required as this is a statutory requirement.

CONCLUSIONS OF LAW

1. Respondent has not satisfied the requirements of N.J.S.A. 45:12-9.3 and N.J.A.C. 13:38-7.3 with regard to the completion of the appropriate number of approved continuing education credit hours and is therefore subject to sanctions pursuant to N.J.S.A. 45:1-21(h), failure to comply with the provisions of an act or regulation administered by the Board, which constitutes grounds for suspension or revocation of any certificate, registration or license, and grounds for sanction pursuant to N.J.S.A. 45:1-25.

2. Respondent attested to the completion of 50 continuing education credits by April 30, 2007 on the biennial renewal application but has submitted information that he failed to obtain thirteen (13) of the requisite continuing education credits required for renewal of the license to practice optometry. Therefore, respondent is subject to sanctions pursuant to N.J.S.A. 45:1-21(b) in that she has engaged in the use or employment of dishonesty, deception or misrepresentation, which constitutes grounds for the suspension or revocation of any certificate, registration or license, and grounds for sanctions pursuant to N.J.S.A. 45: 1-25.

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline suspending respondent's license to practice optometry in the State of New Jersey was entered on September 19, 2007 and a copy was served on the respondent. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless respondent

requested a modification or dismissal of the state Findings of Facts and Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefore.

On October 1, 2007 the Board received correspondence from the respondent indicating that his practice in New Jersey is limited and apologizing for miscalculating and misunderstanding the continuing education requirements in New Jersey. Respondent's correspondence also demonstrated additional continuing education courses that respondent obtained over several renewal periods. Upon review of the information submitted the Board has determined that the respondent had obtained forty one credits within the biennial period and two credits after the renewal period in question and therefore remains short seven continuing education credits. The Board did not accept the eight credits that he obtained in March, 2003 as this was prior to the relevant biennial period. The Board accepted the four carry over credits from the 2003-2005 biennial period and the two continuing education credits respondent obtained in June 2007. Accordingly, the Board reduced the penalty for failure to obtain all the credits within the biennial renewal period from \$1000.00 to \$500.00 and reaffirmed the penalty for falsely affirming on the license renewal application .

THEREFORE, IT IS ON THIS 30th **DAY OF** *October* **, 2007,**

ORDERED:

1. Respondent shall pay a civil penalty of one thousand five hundred dollars (\$1,500.00)

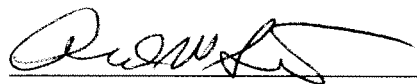
pursuant to N.J.S.A. 45:1-25. This amount consists of \$500.00 for violation of N.J.S.A. 45:12-9.3, N.J.A.C. 13:38-7.3 and N.J.S.A. 45:1-21(h) as evidenced by Respondent's failure to satisfy the continuing education requirements and \$1000.00 for violation of N.J.A.C. 45:1-21(b) for false affirming on the license renewal application that the continuing education credits were completed in full in the specified time frame. Payment is to be remitted by means of a certified check or money order, payable to the New Jersey State Board of Optometrists. Such payment is to be sent to the Board of Optometrists, attention Executive Director at 124 Halsey Street, P.O. Box 45012, Sixth Floor, Newark, New Jersey 07101, no later than ten (10) days from the date that the Final Order is received.

2. Respondent must submit proof of having completed the deficient 7 hours of continuing education credits within thirty (30) days of the date of the receipt of the Final Order. These continuing education credits are NOT to be used to renew respondent's license for the 2009-2011 renewal period.

3. In the event that respondent fails to present the proofs as required by paragraph #2, by the date provided, the license of respondent shall be suspended, by operation of the Final Order, and shall remain suspended until respondent submits proof that he has fully complied with all continuing education requirements.

NEW JERSEY STATE BOARD
OF OPTOMETRISTS

By:



Leonard Steiner, O.D.
President